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FEDERAL COMMUNICATIONS COMMISSION
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VIA HAND DELIVERY

Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals - TW-A325
445 Twelfth Street, S.W.
Washington, DC 20554

EX PARTE OR LATE FILED

Re: Ex Parte
CC Docket No. 98-147

Dear Ms. Salas:

BlueStar Communications, Inc. ("BlueStar") submits the following information concerning issues raised on reconsideration of the Commission's March 31, 1999 *Collocation Order*.

Collocation Intervals

BlueStar submitted applications in May 1999 to BellSouth for cageless collocation in Jacksonville, Florida. BellSouth took three months to supply a quote and then an additional two months to even set a date for provision of collocation space. BellSouth set this date for February 2000 claiming that they needed permits to make minor changes in power and air conditioning. When BlueStar finally received permission to enter the offices and build, it became evident that almost all of them had sufficient extra space to have made it possible for BellSouth to have simply inserted BlueStar in an existing bay back in August.

When BlueStar complained about the permitting delay, it became obvious that the BellSouth personnel had no idea whether a permit application had been filed or would be granted soon. When BlueStar demanded a meeting with permit authorities, the permit was granted in 48 hours. In Orlando, BlueStar demanded a similar meeting, but was told on the eve of the planned meeting date that BellSouth had determined that no permit was needed. This experience shows that BellSouth affords itself essentially complete

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discretion as to when it will allow competitors to collocate in its central offices and makes no genuine effort to determine whether space is available without any preparation.

In order to prevent BellSouth and other ILECs from engaging in unreasonable collocation practices, the Commission on reconsideration of the *Collocation Order* should establish federal intervals governing timing of ILEC provisioning of collocation space. BlueStar's experience is that without such intervals, ILECs will set arbitrarily long periods.

ILECs should be required to provide cageless collocation in 45 days, as promised by US WEST, where space and power are available. If an ILEC believes that extenuating circumstances, such as permits or extensive preparation require more time, then it can file a waiver application with the state commission. The state can evaluate the merits of the request, and the CLEC could suggest ways to obtain collocation within the 45 day time frame. The waiver application should also include an explanation of why the CLEC cannot occupy space commingled with space used by the ILEC. The CLEC should be permitted to occupy commingled collocation space within 45 days. BlueStar would not object to moving the CLEC to newly prepared separate space once it is completed as long as this is accomplished without expense to the CLEC or disruption of service. In no event should ILECs be permitted to charge more for segregated, than for commingled, collocation space. BlueStar has waited several months in numerous instances to obtain collocation space in BellSouth central offices only to find that the office had significant space available on a commingled basis. If the ILEC can prove to the state commission that space preparation is needed and that it has taken steps to expedite the preparation, then the state commission can set a longer period than 45 days.

BlueStar submits that one of the best ways to expedite provision of collocation is to eliminate the quotation process. ILECs could instead establish an average price for various types of collocation arrangements and require that the collocator pay one-half that amount, rather than one-half of a price quotation that takes weeks or months to produce, subject to true-up at a later time. This would spare ILECs the need to rush to provide quotations and permit them to begin provisioning space immediately upon application by a CLEC.

Cost of Collocation

BlueStar's recent experience shows that BellSouth's collocation price estimates are essentially arbitrary. BlueStar first applied for caged collocation in 9 offices. BellSouth requires that caged collocation include walls and an area of not less than 100 square feet, effectively placing BlueStar in its own room within the BellSouth central office. BellSouth charged BlueStar approximately \$20,000 for this extensive construction and the power to run BlueStar's equipment,. After these initial offices, BlueStar switched to a more efficient and less space consuming form of collocation, cageless bays. These are the same bays that BellSouth uses to place its equipment in its

central offices. In these offices, BlueStar only sought three bays of space and the power required to run the equipment which was less than the amount of power applied for in the original offices. Rather than have BellSouth build a room and install bays, BlueStar only sought to have BellSouth place racking for cable and the power distribution system for the equipment.

Despite the enormously reduced scope of work and space preparation involved with cageless bays, BellSouth raised the estimated cost of these collocations to as much as \$80,000. BlueStar wrote BellSouth a letter protesting the cost of these installations, but was required to pay the requested 50% deposit in order to get BellSouth to begin work. BlueStar requested substantiation of these costs, and several months later BellSouth cut the charges by fifty percent in each of the protested offices but still provided no justification for the still exorbitant charges for provisioning these cageless collocation arrangements. The variability of these charges shows that in reality they are simply arbitrary. Consequently, the Commission should establish pricing guidelines for cageless collocation that would assure that cageless collocation charges are reasonable.

Access To Collocation Sites

Throughout the process of collocating in all nine BellSouth states, BlueStar has experienced great difficulty in obtaining access to its collocation space in BellSouth central offices. BellSouth has taken the position that any employee of BlueStar, or its certified contractors such as Lucent Technologies, must submit a completed background check to BellSouth security and receive an ID from BellSouth. BellSouth is then supposed to give BlueStar a set of electronic key cards for each central office which would permit BlueStar to access its collocation space and the areas where it has to run cables to access power and connect to BellSouth frames for DS-0, 1 and 3 terminations. BlueStar's collocation contract with BellSouth provides for unescorted 24 x 7 access to all these sites.

BellSouth has never been able to live up to this portion of the contract. Completely ignoring its contract obligations to BlueStar, each BellSouth regional office and even selected central offices insist upon its own form of access. For example, in mid-December 1999 Lucent Technologies, which performs similar installation work for BellSouth, attempted to begin installing for BlueStar a three bay collocation at several central offices in Louisville. First, several of the Lucent employees could not get proper badges from BellSouth because BellSouth had a significant backlog of requests for badges and for badge activation. To surmount this problem, BlueStar employees used their badges and escorted the Lucent personnel into the sites. BlueStar told BellSouth that it would assume total responsibility for any problems caused by these Lucent employees, all of whom had passed background checks administered by Lucent. This was permitted for one day, but then the regional director of security decided to stop this process and prevented any more personnel from entering the offices.

When BlueStar attempted to escalate this issue within BellSouth, phone calls and e-mails either were not answered, or responded to with a message to call the contract administrator. BlueStar finally managed to contact BellSouth personnel in contract administration, but they informed BlueStar that there was nothing they could do. Although they also informed BlueStar that BellSouth itself experienced delays in authorizing its own personnel to enter its central offices, BlueStar observed BellSouth personnel entering and obtaining access in the central offices in Louisville, Kentucky without any badges.

When the badges for the Lucent personnel finally showed up after they missed several days of construction work, the director of security for Kentucky imposed additional requirements. Several of the offices had internal physical or electronic keys or doors which Lucent had to cross to run the cables between the BlueStar collocation area and the BellSouth frames, power and DSX panels. BellSouth personnel began locking those doors, but BlueStar never received any keys for them despite the requirements in the contract with BlueStar that BlueStar be provided keys necessary to access areas where cables would be installed. This policy was so rigidly enforced that BellSouth personnel would look at BlueStar personnel through glass panels in the doors and refuse to open them up. BellSouth claimed that the codes required to generate new keys had never been sent to the central security administrator. After several more days of lost work time, BellSouth finally cleared up the situation and allowed work to continue. Because of these and other delays, BlueStar's collocation sites were completed almost two months late.

BlueStar urges the Commission on reconsideration of the *Collocation Order*, to establish standards that permit CLECs to obtain reasonable access to their collocation space on the basis of uniform access arrangements implemented throughout an ILECs region. The Commission should establish appropriate reporting and enforcement mechanisms to assure that ILECs implement such uniform standards on a region-wide basis.

Rapid Dispute Resolution

Further experience with BellSouth demonstrates the need for rapid resolution of collocation disputes. After BlueStar other CLECs and BellSouth installed hundreds of bays in Jacksonville, and throughout, Florida where the equipment exceeded the width of the bay by up to 6 inches, BellSouth decided on 24 hours notice that it needed to conserve space and would no longer allow equipment to overhang the bays. BlueStar could have accommodated a thirty day notice by BellSouth to alter this practice (as long as BellSouth waived the normal absurdly long period to augment an order). Instead, BellSouth immediately stopped all BlueStar work in several central offices in Jacksonville for 72 hours. Only after a full day of discussions and email threatening extensive litigation did BellSouth agree to allow a phase-in of this requirement.

BellSouth has engaged in a number of activities that seriously retard the efforts of

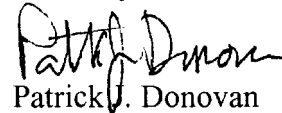
high speed data service competitors to provide service. The Commission should establish a permanent hearing office, or employ a private arbitrator that would have the authority to resolve disputes within 48 hrs in a largely informal procedure. More formal proceedings might follow, if one party wants an opportunity to conduct discovery and introduce more evidence, but the parties would have to follow the result of the initial hearing pending the outcome of the more formal proceeding. Absent such rapid dispute resolution procedures, ILECs, simply by refusing to follow contracts and quickly correct failures, can substantially harm competition.

Two copies of this letter are attached.

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Sincerely,



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